

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

|   |   |                              |
|---|---|------------------------------|
| SECURITIES INVESTOR PROTECTION CORPORATION,   | ) |                              |
|   | ) | Adv. Pro. No. 08-01789 (CGM) |
|   | ) |                              |
| Plaintiff-Applicant,  | ) | SIPA Liquidation             |
| v.  | ) |                              |
|   | ) | (Substantively Consolidated) |
| BERNARD L. MADOFF INVESTMENT SECURITIES LLC,  | ) |                              |
|   | ) |                              |
|   | ) |                              |
| Defendant.  | ) |                              |
| In re:  | ) |                              |
|   | ) |                              |
| BERNARD L. MADOFF,  | ) |                              |
|   | ) |                              |
| Debtor.   | ) |                              |
|   | ) |                              |
| IRVING H. PICARD, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and the Estate of Bernard L. Madoff, | ) |                              |
|   | ) | Adv. Pro. No. 12-01273 (CGM) |
|   | ) |                              |
| Plaintiff,  | ) |                              |
| v.  | ) |                              |
|   | ) |                              |
| MISTRAL (SPC),  | ) |                              |
|   | ) |                              |
|   | ) |                              |
| Defendant.  | ) |                              |

**NOTICE OF MOTION TO DISMISS**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Defendant Mistral (SPC)’s (“Defendant”) Motion to Dismiss, the Trustee’s Amended Complaint (“AC”) dated June 9, 2022, attached as Exhibit A, and all prior pleadings and proceedings herein, Defendant will move this Court for an order dismissing with prejudice the AC filed by Plaintiff Irving H. Picard (the “Trustee”), as Trustee for the liquidation of the

business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-lll, and the substantively consolidated chapter 7 estate of Bernard L. Madoff, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable here by Rule 7012 of the Federal Rules of Bankruptcy Procedure.

PLEASE TAKE FURTHER NOTICE that, under Rule 7012(b) of the Federal Rules of Bankruptcy Procedure, Defendant does not consent to the entry of final orders or judgment by this Court.

Dated: August 15, 2022  
New York, New York

**O’MELVENY & MYERS LLP**

By: /s/ William J. Sushon

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